

SUBMISSION 8 November 2012

**Senate Standing Committee on Environment and Communications
Water Amendment (Water for the Environment Special Account) Bill 2012**

Summary

1. ACF supports the intent of the Bill, to the extent that it creates a Special Account to provide for the recovery of environmental water for the Murray-Darling and overcoming constraints to the deliver of environmental water.
2. ACF does not support the use of funds in the Special Account to offset socio-economic impacts of water recovery. Ensuring a healthy and resilient Murray-Darling Basin must be a priority and will in itself have long-lasting, widely enjoyed social and economic benefits. Whilst the Commonwealth Government has an important role to play in supporting communities and industry to adjust to lowered water extraction limits, funds and initiatives to achieve this should be provided for separately.
3. This Bill must not be used as an excuse for adopting a Basin Plan that does not mandate the recovery of sufficient water for the environment. Hydrologic modelling by the Murray-Darling Basin Authority ('the Authority') shows that the recovery of greater than 3,200 gigalitres (GL) of environmental water is required to safeguard the Basin's water dependent ecosystems. This Bill must be coupled with a Basin Plan that guarantees greater than 3,200 GL.
4. Despite statements by the Prime Minister and the Water Minister that the Special Account will provide for the recovery of 450 GL of environmental water and the achievement of the environmental outcomes associated with a total recovery of 3,200 GL, the Bill fails to guarantee the recovery of any specific volume of environmental water. It is essential that the Bill require the recovery of at least 450 GL of environmental water.
5. Furthermore, the Commonwealth Government should not be hamstrung in achieving this water recovery by being tied to expensive and potentially ineffective water-saving infrastructure projects instead of the direct purchase of water entitlements from willing sellers. The Prime Minister and the Water Minister both acknowledge that the former is far more expensive, as evidenced by the fact that the \$5.8 billion Sustainable Rural Water Use and Infrastructure program is likely to recover no more than 600 GL of water, whilst the \$3.1 billion Restoring the Balance in the Murray Darling Basin program will recover at least three times that volume. Even if the existing rate of return continues for the infrastructure spend, it is unlikely that that the Special Account would recover 450 GL. Given that the existing \$5.8 billion program will have already plucked the "low-hanging fruit" in terms of water-saving projects, it is reasonable to expect that the rate of return will diminish over time, making the 450 GL aspiration even harder to achieve. Whilst nothing in the Bill expressly prohibits expenditure on entitlement purchase, this will be the effect of proposed s.83AD(4) if the Basin Plan includes adjustment criteria as currently proposed by the Authority and the Water Minister.

6. An ongoing problem with the proposed Sustainable Diversion Limit (SDL) Adjustment Mechanism is that, at least as far as surface water is concerned, the Authority will not be permitted to adjust SDLs on the basis of new knowledge. This is despite the fact that the Authority acknowledges their existing analysis and modelling of environmental water requirements excludes consideration of important emerging knowledge such as the impacts of climate change on water availability or the connectivity of surface and groundwater resources. As the Bill restricts water recovery to potential SDL adjustments, this could result in the perverse situation where scientifically determined environmental water recovery is unable to be funded through the Special Account.

Specific recommendations

The Bill should be amended to achieve the following outcomes.

7. Provide a mandatory **total water recovery target** of at least 450 GL. In proposed s.86AA(3)(b), the words “up to” should be replaced with “at least.”
8. Provide for the progressive recovery of 450 GL over the lifespan of the Special Account by inserting a **schedule of annual water recovery targets** that amount to a total of at least 450GL. An alternative but less desirable option is to insert a provision that requires such a schedule be developed and adopted as a regulation within six months of commencement.
9. Ensure that the annual report provided to the Minister under proposed s.86AI reports performance against the schedule by detailing:
 - 9.1. actual water recovered in the previous year compared to the annual water recovery target contained in the schedule;
 - 9.2. progress towards the total water recovery target, including a **total water recovery forecast** stating whether the Government is likely to achieve the target within the specified timeframe and with the available funding.
10. Require a review of the expenditure priorities and available funds, triggered if the total water recovery forecast indicates that there is a significant risk of failure to achieve the total water recovery target. The review must result in an adjustment in expenditure priorities and, if necessary, the appropriation of additional funds to ensure that the target will be achieved.
11. Require that any expenditure of funds from the Special Account must be spent according to cost-effectiveness and environmental benefit criteria.
12. Remove the ability for funds from the Special Account to be spent addressing socio-economic impacts by deleting proposed s.86AD(2)(c)(ii). If this is unacceptable to the Parliament, at the very least the words “associated with” should be replaced with language that restricts expenditure to offsetting an impact for which there is a demonstrable, direct causal link with the project or purchase.
13. Enable funds from the Special Account to be spent on the purchase of additional water access rights where the Authority has determined, on the basis of new knowledge, that further recovery is required in order to maintain an environmentally sustainable level of take (for example due to the impacts of climate change or groundwater drawdown, or previously unknown ecological requirements). This requires an exception to proposed s.83AD(4) such that purchases under proposed s.832AD(2)(b) may proceed on the basis of new knowledge regardless of whether they relate to an adjustment under proposed s.23A.

14. Remove the ability for funds from the Special Account to be spent increasing the capacity of dams and storages as potentially provided for by proposed s.86AD(2)(a)(iv). This provision should be restricted to projects which increase the outlet capacity of existing dams and storages where this is required in order to effectively water environmental assets.
15. Regarding 86AF(2), include a provision that any agreement with a state needs to be consistent with the objects of this Part.

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